*Supreme Court of Pennsylvania.*

WILLIAM H. SEISS *v.* HENRY STORCH.

Where a party is called by the other side as a witness on the trial of a case the objection to his competency is removed for all purposes, and he may be called at a subsequent period in the same trial as a witness in his own behalf.

ERROR to Common Pleas of *Lehigh county.*

The opinion of the court was delivered by

READ, J.—The defendant called the plaintiff, and he was examined and cross-examined. The plaintiff's counsel then called the plaintiff as a witness on his own behalf; he was objected to, but was admitted to testify, and was examined and cross-examined, and this is assigned for error.

In England, when called as a witness by the defendants, he might, on cross-examination, have testified as to every and any fact material to the issue, but in Pennsylvania, according to the rule in *Ellmaker* v. *Buckley*, 16 S. & R. 72, a party cannot, before he has opened his case, introduce it to the jury by cross-examining the witness of the adverse party. Accordingly, in *Floyd* v. *Bovard*, 6 W. & S. 75, the plaintiff called as a witness a co-defendant, and examined him, and at a subsequent stage of the trial he was called and examined as a witness for the defendant. In this case the witness was both a party and directly interested. C. J. GIBSON said, p. 77, "The plaintiff himself had called him to prove a part of his case, the witness consenting to be sworn; and had not this been done, he certainly would have been incompetent to testify for his co-defendant; and why? because his interest raised a presumption unfavorable to his credibility, which would not have been rebutted. But did not the plaintiff rebut it when he produced him as a witness worthy of credit and had the benefit of his testimony?—or did he assert no more than that he was worthy of credit only when he testified against his own interest? The man who is honest enough to declare the whole truth when it makes against him, will be honest enough to declare no more than the truth in his own favor. It would give a party an unjust advantage to let him pick out particular parts of a witness's testimony and reject the rest. But the matter does not rest on principle alone, for it is a familiar rule that a party can-

not discredit his own witness or show his incompetency:" see also *Stockton & Stokes* v. *Demuth*, 7 Watts 41, per SERGEANT, J., and *Turner* v. *Waterson*, 4 Watts & S. 175, by the same learned judge, where the same doctrine is directly laid down.

In construing, therefore, the remedial Act of 27th March 1865, P. L. 38, we must apply this well-established principle, that if a party puts an incompetent witness on the stand by exercising any power which he possesses over him, he makes him an entirely competent witness in the cause, to be used as such by either party. The learned judge was entirely right, and

The judgment is affirmed.

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*Supreme Court of New Jersey.*

RIPLEY *v.* NEW JERSEY RAILROAD COMPANY.

Where a railroad company has issued a commutation ticket, by which the purchaser is entitled to ride for less than the usual legal fare, and the ticket contains a contract that the commuter shall show it to the conductor when requested, the company is entitled to enforce such contract strictly, and the loss of the ticket will deprive the commuter of his right to a free passage on the cars.

ON demurrer to the declaration,

The opinion of the court was delivered by

VREDENBURGH, J.—The declaration states that the defendants, on the 6th of January, 1865, in consideration of $80 paid them, granted to the plaintiff the privilege of a free passage on their road from New Brunswick to New York, daily for one year, and at the same time gave him a commutation ticket showing such right, and also at the same time a receipt for the money, which receipt also provides that the ticket is to be shown to the conductor each trip whenever required, and that the privilege is to be forfeited upon any infringement of this rule, and that no duplicate ticket would be issued.

The declaration then further avers, that in October the plaintiff had his ticket *stolen* from him, and that the defendants, because he could not show his ticket, refused him the said privilege of a free pass; whereupon he brought this suit for damages. This is not a question of the reasonableness of the rules of the